

Proposed Rule
LSA Document #10-416

DIGEST

Adds [465 IAC 2-16](#), concerning residential treatment services providers licensed by the department as child caring institutions under [IC 31-27-3](#), group homes under [IC 31-27-5](#), and private secure facilities under [465 IAC 2-11](#), to establish the mechanisms the department will use for setting maintenance payments, administrative payments, and payments for other costs and services that may be made to residential treatment services providers and to describe outcome measures that the department may consider in contracting with residential treatment services providers for placement of children and provision of services. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[465 IAC 2-16](#)

SECTION 1. [465 IAC 2-16](#) IS ADDED TO READ AS FOLLOWS:

Rule 16. Rate Setting for Residential Treatment Services Providers

[465 IAC 2-16-1](#) Scope and purpose

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 1. (a) Every residential treatment services provider in the state of Indiana must be licensed by the department in accordance with state law in order for the department to recommend placement of a child with a residential treatment services provider or pay for the costs of such placement.

(b) This rule establishes the procedures the department will use for setting the base rate, including, but not limited to, maintenance payments, administrative payments, and other costs described in this rule, and that will be paid to residential treatment services providers in the state of Indiana.

(Department of Child Services; [465 IAC 2-16-1](#))

[465 IAC 2-16-2](#) Applicability of definitions

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 2. The definitions in sections 3 through 16 of this rule apply throughout this rule.

(Department of Child Services; [465 IAC 2-16-2](#))

[465 IAC 2-16-3](#) "Administrative payment" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 3. "Administrative payment" means the payment for reasonable costs related to administration of the residential treatment services providers. The administrative payment for residential treatment services providers shall cover the following reasonable costs, including, but not limited to:

- (1) Case work.**
- (2) Case management.**

- (3) General administration, including general management.
- (4) Accounting and finance.
- (5) Human resources.
- (6) Management information systems.
- (7) Quality assurance procedures.
- (8) Legal expenses, other than fees and costs related to certain litigation.
- (9) Office supplies.
- (10) Professional fees and dues.
- (11) Subscriptions.
- (12) Printing and postage.
- (13) Medical examinations required as a condition of employment.
- (14) A reasonable profit margin for for-profit residential treatment services providers.

(Department of Child Services; [465 IAC 2-16-3](#))

[465 IAC 2-16-4](#) "Approved department assessment tool" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 4. "Approved department assessment tool" means a department designated, child-appropriate instrument for the assessment of child functional impairment. The approved department assessment tool is used by the department to assist in assessing the needs and strengths of children within the department's system of care.

(Department of Child Services; [465 IAC 2-16-4](#))

[465 IAC 2-16-5](#) "Base rate" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 5. "Base rate" means a per diem payment that the department will make to residential treatment services providers and will include the following components:

- (1) Maintenance payment.
- (2) Administrative payment.
- (3) To the extent consistent with the child's assessed needs, payment for costs that are not eligible for Title IV-E reimbursement, if such costs are determined by the department to be prudent and reasonably incurred in order to serve a child's needs in connection with the child's permanency plan or other plan of care and treatment. Such costs may include, but are not limited to:
 - (A) on-site nursing staff; or
 - (B) transportation to medical appointments for the child.
- (4) Payment for independent living services.

(Department of Child Services; [465 IAC 2-16-5](#))

[465 IAC 2-16-6](#) "Cost report" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 6. (a) "Cost report" means a report that the department requires each residential treatment services provider to complete for each residential program that the residential treatment services provider operates.

(b) The cost report shall include the following:

- (1) Actual costs incurred by or on behalf of the program in the most recently completed residential

treatment services provider fiscal year, or in an alternative twelve (12) month period as specified by the department.

(2) Any other information relating to determination of the cost of operating or supervising the program that is specified by the department, or that the residential treatment services provider considers relevant to determination of its reasonable administrative costs relating to the program, consistent with the applicable provisions of this rule.

(Department of Child Services; [465 IAC 2-16-6](#))

[465 IAC 2-16-7](#) "Critical case juncture" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 7. "Critical case juncture" means an event or episode, as determined by the department, involving the child or family that has caused or may cause a disruption in the child's placement.

(Department of Child Services; [465 IAC 2-16-7](#))

[465 IAC 2-16-8](#) "Department" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-1-1](#); [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 8. "Department" means the Indiana department of child services established by [IC 31-25-1-1](#).

(Department of Child Services; [465 IAC 2-16-8](#))

[465 IAC 2-16-9](#) "Excess capacity" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 9. "Excess capacity" means, in cases where the actual average annual occupancy rate, as included in the cost report, is less than the minimum acceptable average annual occupancy rate as established annually by the department, for a particular residential treatment services provider or program, the difference between the:

- (1) actual average annual occupancy rate of the residential treatment services provider's program; and
- (2) minimum acceptable average annual occupancy rate of the residential treatment services provider's program as established annually by the department.

(Department of Child Services; [465 IAC 2-16-9](#))

[465 IAC 2-16-10](#) "Maintenance payment" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 10. "Maintenance payment" means a payment to a residential treatment services provider to cover the reasonable cost of, and the reasonable cost of providing, the following items, on behalf of a child placed by the department with the residential treatment services provider:

- (1) Food.
- (2) Clothing.
- (3) Shelter.
- (4) Daily supervision.
- (5) School supplies.

- (6) Personal incidentals for the child.
- (7) Liability insurance with respect to a child placed in the residential treatment services provider's facility.
- (8) Reasonable travel expenses for the child to attend school where the child was enrolled before placement, to the extent that school transportation is not provided or required to be provided under applicable Indiana law by a public school corporation or other state or local agency.
- (9) Reasonable travel expenses for the child to the child's home for visitation to the extent required by, or consistent with, the child's individual case plan.

(Department of Child Services; [465 IAC 2-16-10](#))

[465 IAC 2-16-11](#) "Nonprofit entity" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 11. "Nonprofit entity" means a residential treatment services provider that has been determined to be exempt from federal income taxation by the Internal Revenue Service or otherwise operates under such an exemption pursuant to the Internal Revenue Code of 1986, as amended.

(Department of Child Services; [465 IAC 2-16-11](#))

[465 IAC 2-16-12](#) "Occupancy costs" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 12. "Occupancy costs" means facility related costs of a residential treatment services provider including, but not limited to, the following:

- (1) Depreciation.
- (2) Interest.
- (3) Rent.
- (4) Utilities.
- (5) Building repairs and maintenance.
- (6) Property taxes.
- (7) Property insurance.

(Department of Child Services; [465 IAC 2-16-12](#))

[465 IAC 2-16-13](#) "Public hearing" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 13. "Public hearing" means a hearing, open to the public, for the department to accept comments, suggestions, and feedback related to annual review of the base rate as set by the mechanisms in this rule.

(Department of Child Services; [465 IAC 2-16-13](#))

[465 IAC 2-16-14](#) "Reasonable costs" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 14. "Reasonable costs" shall have the meanings as described in the following:

- (1) 2 CFR Part 225 (OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments).
- (2) 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations).
- (3) 48 CFR Part 31 Section 201-3 (Determining Reasonableness).

(Department of Child Services; [465 IAC 2-16-14](#))

[465 IAC 2-16-15](#) "Residential treatment services provider" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 15. "Residential treatment services provider" means a provider licensed by the department as a:

- (1) child caring institution under [IC 31-27-3](#);
- (2) group home under [IC 31-27-5](#); or
- (3) private secure facility under [465 IAC 2-11](#).

(Department of Child Services; [465 IAC 2-16-15](#))

[465 IAC 2-16-16](#) "Title IV-E" defined

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 16. "Title IV-E" means the following:

- (1) Title IV-E of the Social Security Act as codified in 42 U.S.C. 671 et seq.
- (2) Regulations of the U.S. Department of Health and Human Services, Administration on Children, Youth and Families (ACYF), applicable to Title IV-E of the Social Security Act, as codified in 45 CFR Part 1355 and 45 CFR Part 1356.
- (3) Official interpretations of Title IV-E of the Social Security Act and applicable regulations by the federal administering agency, as published in the Child Welfare Policy Manual issued by the Children's Bureau of the ACYF.

(Department of Child Services; [465 IAC 2-16-16](#))

[465 IAC 2-16-17](#) Outcome measures

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 17. (a) The services provided by the residential treatment services provider may be measured by the following outcomes at intake, discharge, and follow-up for the child. These outcomes will be specified by contract with or later communication from the department and may include, but not be limited to, the following:

- (1) Clinical outcomes.
- (2) Functional outcomes.
- (3) Effectiveness of placement.
- (4) Consumer satisfaction.
- (5) Risk factors.

(b) Based on these outcomes, and other outcomes measured by the department from time to time, the department may, in its discretion, take action, which may include, but is not limited to:

- (1) adjusting recommendations for placement or services to be provided;
- (2) revising individual child permanency plans or case plans; or
- (3) amending or otherwise renegotiating its contractual relationship with a residential treatment services provider.

(Department of Child Services; [465 IAC 2-16-17](#))

[465 IAC 2-16-18](#) Annual public comment period; public hearing

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 18. (a) An annual period of public comment will be open for at least thirty (30) days preceding an annual public hearing. The public comment process will allow residential treatment service providers and other interested persons or organizations to communicate ideas, suggestions, or other comments regarding the rate setting methodology in writing or via e-mail to the department at an address specified in notices posted by the department on its website.

(b) At least one (1) public hearing regarding the rate setting methodology will be held on an annual basis at an address specified in a notice posted by the department on the department's website.

(c) Notice of a public hearing will be posted on the department's website for a period of thirty (30) consecutive days immediately before the date scheduled for the public hearing.

(d) The department may, in addition to posting information on its website, provide public notice of the time and place of a scheduled public hearing through advertisement or publication in news media or posting in locations accessible to the public.

(Department of Child Services; [465 IAC 2-16-18](#))

[465 IAC 2-16-19](#) Independent review of the rate setting methodology

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 19. An independent third party contractor will conduct an annual review of the department's rate setting methodology.

(Department of Child Services; [465 IAC 2-16-19](#))

[465 IAC 2-16-20](#) Payments

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 20. The department will make payments to a residential treatment services provider at the time and in the manner specified in a written agreement that is in a form approved by the department and executed by the parties.

(Department of Child Services; [465 IAC 2-16-20](#))

[465 IAC 2-16-21](#) Publishing of payments

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 21. The department will maintain and publish a list of all residential treatment services provider base rate amounts.

(Department of Child Services; [465 IAC 2-16-21](#))

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 22. (a) Each residential treatment services provider shall submit to the department a cost report on an annual basis at the time and in the form required by the department. Failure to submit the cost report timely may result in delay in payment or nonpayment by the department for costs incurred or services rendered by the residential treatment services provider.

(b) Any payments made to a residential treatment services provider will be made pursuant to a written agreement that is in a form specified by the department and executed by the parties.

(c) The department will review each cost report for reasonableness and eligibility under Title IV-E and other federal guidance. The department may, in its discretion, adjust historical costs to reflect current costs. Based on that review, the department will submit to the residential treatment services provider a final approved cost report that the department will use in calculating the applicable rates.

(d) To be allowable, a cost must relate to one (1) or more of the categories described in section 5 of this rule. The cost must also satisfy the following criteria:

(1) The cost is ordinary, reasonable, necessary, and related to the direct care of children.

(2) The cost is related to goods or services actually provided by the residential treatment services provider.

(e) The department will mail to the residential treatment services provider a letter (rate letter) stating the base rate or rates that the department agrees to pay, for each applicable program for children whom the department has placed or may place with the residential treatment services provider. The rate letter will include the effective date of the new approved base rate or rates as approved by the department. The effective date will be the first day of a calendar month that is not less than thirty (30) days after the date of the letter.

(f) If the residential treatment services provider accepts the rate offered by the department in the rate letter, such rate shall amend any agreement containing payment rates for placements currently in effect between the residential treatment services provider and the department.

(g) If the residential treatment services provider does not accept the rate offered by the department in the rate letter, the residential treatment services provider must send notice to the department no later than thirty (30) days following the residential treatment services provider's receipt of the rate letter that was mailed to the provider in accordance with subsection (e). Upon receipt of such notice, the department will no longer make recommendations for placement of children with the residential treatment services provider for services to which the rejected rate would apply.

(h) If a court orders placement of a child with a residential treatment services provider contrary to the recommendation of the department, the department will be responsible for payment only in the amount stated in the most recent rate letter that was mailed to the residential treatment services provider in accordance with subsection (e).

(i) The department will continue to pay the residential treatment services provider for any child placed in the residential treatment services provider's facility, based on the rate in effect at the time of placement, if the residential treatment services provider does not accept a new rate specified in a rate letter described in subsection (e). However, the department may, subject to approval of the court having jurisdiction over the child, move the child to another placement with a different residential treatment services provider, if the change of placement is consistent with the welfare and best interests of the child.

(j) Each cost report submitted under subsection (a) is subject to further review or audit by the department. Such a review or audit may result in a request for a rate adjustment as specified in a new rate

letter issued and mailed to the residential treatment services provider.

(k) If the residential treatment services provider has not been licensed, or operated a program for which a base rate is required, for a period of at least twelve (12) months before the cost report is due to the department, the residential treatment services provider shall submit a cost report utilizing a comprehensive twelve (12) month operating budget for the new program at least ninety (90) days before the start of the program. The department will utilize its rate setting methodology as provided herein to establish a rate for the new program. The cost report shall be in the form specified or approved by the department.

(Department of Child Services; [465 IAC 2-16-22](#))

[465 IAC 2-16-23](#) Unallowable costs in the base rate

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 23. (a) Expenditures for the following services are ineligible costs under Title IV-E and are not to be included in the base rate:

- (1) Counseling.**
- (2) Therapy.**
- (3) Education (other than school supplies).**
- (4) Health and medical services or treatment.**

(b) Consistent with federal guidelines, the department will not pay residential treatment services providers for certain unallowable expenses and costs, as specified in subsections (c) and (d). These unallowable costs will not be considered by the department in calculating the base rate. The unallowable costs and expenses as listed in subsections (c) and (d) must be paid with funds secured from a funding source other than the department.

(c) The following costs are unallowable:

- (1) Fines and penalties resulting from violations of or failure of the organization to comply with federal, state, or local laws and regulations, except when incurred as a result of compliance with specific provisions of a contract with the department or instructions in writing from the department.**
- (2) Investment management counsel and staff and similar expenses incurred solely to enhance income from investments.**
- (3) Lobbying as defined in 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations).**
- (4) Organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions.**
- (5) Donations and contributions, including cash, property, and services made by the organization, regardless of the recipient.**
- (6) Donated goods or services received by the organization, except when donated services utilized in the performance of a direct cost activity are material in amount.**
- (7) Bad debts, including losses arising from uncollectible accounts and other claims, related collection costs, and related legal costs.**
- (8) Compensation and special benefits to owners in excess of amounts reasonable for the services rendered.**
- (9) Entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs, such as the following:**
 - (A) Tickets to shows or sports events.**
 - (B) Meals.**
 - (C) Lodging.**
 - (D) Rentals.**
 - (E) Transportation.**
 - (F) Gratuities.**
- (10) Alcoholic beverages.**
- (11) Litigation expenses and fees if the expenses and fees relate to a lawsuit or other legal proceeding:**

(A) that:

(i) alleges a violation of, or failure to comply with, a federal, state, local, or foreign statute or regulation by the organization (including its agents and employees); and

(ii) results in:

(AA) a conviction in a criminal proceeding;

(BB) a determination of liability in a civil or administrative proceeding involving an allegation of fraud or similar misconduct;

(CC) the imposition of a monetary penalty in any civil or administrative proceeding;

(DD) the termination of the contract with the department;

by reason of a violation or failure to comply with a law or regulation, or a disposition by consent or compromise if the action could have resulted in any of the proceeding dispositions listed in this item;

(B) initiated by the residential treatment services provider against the department for:

(i) judicial review of any final rate, payment, child assessment, or child program placement determination made by the department;

(ii) interpretation or application of this rule, any other rule of the department, or any department policy;

(iii) alleged noncompliance by the department with any provision of Title IV-E or any other federal or state law, rule, or regulation; or

(iv) alleged breach of any contract between the department and the residential treatment services provider;

(C) naming as a party defendant any other federal or state governmental agency; or

(D) initiated by, or on behalf of, a child or a child's parent or legal guardian, against the residential treatment services provider, alleging a claim for damages, violation of a constitutional or statutory right, or any other basis for liability of the provider to the plaintiff or plaintiffs.

(12) Mortgage and loan principal payments.

(13) Contingency reserves or similar provisions made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening.

(14) Advertising and public relations except those which are solely for the recruitment of personnel, the procurement of goods or services necessary to support the program, and other specific purposes necessary to meet the requirements of the department.

(15) Housing of nonclients.

(16) Taxes from which exemptions are available to the residential treatment services provider directly, or which are available to the residential treatment services provider based on an exemption afforded by the federal government when the awarding agency makes available the necessary exemption certificates.

(17) Federal income taxes.

(18) Profit margin for any nonprofit entity.

(19) Nonstraight line depreciation except where clear evidence indicates that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in later portions of its useful life.

(d) The following costs and expenses will be considered by the department to be unallowable costs on the cost report and will not be considered in calculating the administrative payment:

(1) Salaries: Amounts exceeding the maximum allowable variation established by the department from the median salary for the job category that is determined by the:

(A) most recent available Child Welfare League of America Salary Study published by CWLA Press, that contains a survey of applicable job category salaries; or

(B) applicable job category salaries paid by all residential treatment services providers in Indiana, as determined by reports compiled by, or available to, the department.

(2) Fringe benefits: Amounts exceeding the maximum allowable variation established by the department from the median fringe benefit rate (total fringe benefits as a percent of total wages) for all Indiana residential treatment services providers, as determined by reports compiled by, or available to, the department.

(3) Client to direct care staff ratios: Costs associated with staff in significant excess of licensing requirements as established by [465 IAC 2-9](#) through [465 IAC 2-12](#), as amended, or services standards adopted by the department.

(4) Direct care staff to supervisor ratios: Costs associated with supervisory staff in significant excess of licensing requirements as established by [465 IAC 2-9](#) through [465 IAC 2-12](#), as amended, or services standards adopted by the department.

- (5) Indirect cost allocations: Any indirect cost allocations as a percentage of total costs in excess of the maximum percentage of total costs established by the department for allowable indirect costs.
- (6) Total administrative costs: Any amount by which total administrative payment costs exceed a maximum percentage of total costs established by the department.
- (7) Occupancy costs associated with excess capacity as defined in section 9 of this rule.

(Department of Child Services; [465 IAC 2-16-23](#))

[465 IAC 2-16-24](#) Placement and assessment of children

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 24. (a) The department is responsible for determining the child's assessed category of supervision and the final decision regarding the child's placement, subject to court review and supervision.

(b) The department requires an accurate assessment of each child to ensure that:

- (1) each child's individual needs are met in the placement; and
- (2) the child is in an appropriate placement.

(c) The department will complete an approved department assessment tool on every child in the care and custody of the department in accordance with the department's approved assessment tool policy. The result from the approved department assessment tool will be used to assist in determining the appropriate placement for the child.

(d) Each child will be reassessed using the approved department assessment tool at least every one hundred eighty (180) days, in the department's discretion following a critical case juncture, or when the department reasonably believes there is relevant, new, or changed information about the child's supervisory needs that were not adequately addressed in the approved department assessment tool or during discussions about the type of placement before the placement occurred. The base rate payment may increase or decrease, if the child is placed in a different program based on the child's needs at the time of the reassessment.

(Department of Child Services; [465 IAC 2-16-24](#))

[465 IAC 2-16-25](#) Offsetting revenue and netting

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 25. (a) Eligible cost reimbursement offsetting will be applied as a credit in accordance with federal regulations as identified by 2 CFR Part 230 (OMB Circular A-122 Cost Principles for Non-Profit Organizations). The resulting net cost will be used to establish the administrative payment.

(b) Applicable credits refers to those receipts, or reduction of expenditures which operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions include, but are not limited to, the following:

- (1) Purchase discounts.
- (2) Rebates or allowances.
- (3) Recoveries or indemnities on losses.
- (4) Insurance refunds.
- (5) Adjustments of overpayments or erroneous charges.

To the extent that such credits accruing or received by the residential treatment services provider relate to allowable costs, they shall be credited to the department either as a cost reduction or cash refund, as appropriate.

(c) In some instances, the amounts received from the department to finance residential treatment services provider activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures will be applied by the department in determining the administrative payment.

(Department of Child Services; [465 IAC 2-16-25](#))

[465 IAC 2-16-26](#) Behavioral health

Authority: [IC 31-25-2-18](#)

Affected: [IC 12-15-21](#); [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 26. (a) Counseling, therapy, skill building, behavioral health management, and other Medicaid eligible behavioral health services will be provided upon authorization from the department.

(b) For services authorized by the department, each residential treatment services provider shall bill Medicaid separately for those children who are Medicaid eligible. If a child is not Medicaid eligible, each residential treatment services provider shall bill the department separately for these services. The department shall pay for such services in an amount not greater than the applicable Medicaid rate in accordance with [IC 12-15-21](#).

(Department of Child Services; [465 IAC 2-16-26](#))

[465 IAC 2-16-27](#) Education

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 27. (a) Educational services may be provided by a residential treatment services provider with the approval of the department. Educational services require separate authorization from the department.

(b) A residential treatment services provider shall bill the department separately for approved educational services. The residential treatment services provider must submit educational services cost information with the cost report or as such information is reasonably requested by the department. Any payments for educational services that are provided directly by a residential treatment services provider to a child placed with that residential treatment services provider shall be:

- (1) made in the amount and manner specified in a negotiated agreement between the department and the residential treatment services provider; and
- (2) based on the reasonable costs contained in the residential treatment services provider's cost report.

(Department of Child Services; [465 IAC 2-16-27](#))

[465 IAC 2-16-28](#) Independent living services

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 28. Independent living services must be provided by the residential treatment services provider in accordance with the department's Chafee Independent Living Program Services Standards posted on the department's website at www.in.gov/dcs/ChafeeIndependentLiving.htm.

(Department of Child Services; [465 IAC 2-16-28](#))

[465 IAC 2-16-29](#) Health and medical services or treatment

Authority: [IC 31-25-2-18](#)

Affected: [IC 12-15-21](#); [IC 31-25-2-7](#); [IC 31-27-6](#)

Sec. 29. For health and medical services or treatment, each residential treatment services provider shall bill Medicaid separately for those children who are Medicaid eligible. If a child is not Medicaid eligible, each residential treatment services provider shall bill the department separately for these services. The department shall pay for such services in an amount not greater than the applicable Medicaid rate in accordance with [IC 12-15-21](#).

(Department of Child Services; [465 IAC 2-16-29](#))

[465 IAC 2-16-30](#) Review of base rates

Authority: [IC 31-25-2-18](#)

Affected: [IC 31-25-2-7](#); [IC 31-27-3](#); [IC 31-27-5](#)

Sec. 30. (a) Residential treatment services providers may request a review of a base rate approved by the department as stated in a rate letter issued in accordance with section 22(e) of this rule. A residential treatment services provider may request a review of the base rate when it believes that:

(1) errors have been made in the:

(A) cost report submitted to the department under section 22(a) of this rule;

(B) calculation of the base rate; or

(C) determination of the reasonableness of any cost; or

(2) the determination of the base rate by the department has a material adverse impact on child welfare in Indiana and no other residential treatment services provider in the state of Indiana, or other licensed provider, can adequately address the adverse impact to child welfare in the state of Indiana.

(b) A request for review of any part of the base rate approved by the department must be submitted in writing to the department within thirty (30) days after the written notice of the approved base rate has been sent by the department. Notice is effective upon mailing of the rate letter described in section 22(e) of this rule to the residential treatment services provider's address. A request for review of the base rate submitted more than thirty (30) days after the notice of the base rate was mailed will not be considered.

(c) The request for review of the base rate shall be submitted in the form and manner specified by the department and shall include, but not be limited to, the following items:

(1) Identification of the current base rate and approved new base rate, as applicable to a specific program or service offered by the residential treatment services provider.

(2) An updated or revised cost report for the applicable program or service, including an itemized statement of administrative and indirect costs that the residential treatment services provider considers allowable under the provisions of this rule.

(3) A clear, concise statement of the reasons for the requested change.

(4) A detailed statement of related information in support of the change.

The department will not accept or process an incomplete request for review of the base rate that does not include at least the items specified in this subsection.

(d) No request for review of the base rate will be acted upon if the residential treatment services provider has a current license that is in the process of being revoked by the department.

(e) If a contract between the department and the residential treatment services provider is in effect at the time a request for review of the base rate is submitted, the base rate currently applicable to the program or service to which the request for review of the base rate relates will remain in effect pending the result of the review. The department will send notice of the outcome of the request for review of the base rate to the residential treatment services provider within sixty (60) days of receiving the request for review of the base rate. The new base rate, as affirmed or revised by the department upon completion of the review, will be effective as of the date of the rate letter issued under section 22(e) of this rule. Any payments made by the department or received by the residential treatment services provider after the effective date will be adjusted in accordance with the final approved base rate.

(f) If there is no contract in effect at the time of the review, the department will not recommend or pay for new placements until the review is completed. If the residential treatment services provider does not accept the rate approved by the department following completion of the review, section 22(i) of this rule will apply to any current placements of children in the residential treatment services provider's facility, program, or service to which the disputed base rate applies.

(Department of Child Services; [465 IAC 2-16-30](#))

[Notice of Public Hearing](#)

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